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AN

ADDRESS

TO THE

constitutional convention

PEOPLE OF RHODE-ISLAND,

FROM THE CONVENTION

ASSEMBLED AT PROVIDENCE, ON THE 22d DAY OF FEBRUARY,

AND AGAIN ON THE 12th DAY OF MARCH, 1834,

TO PROMOTE THE ESTABLISHMENT OF A

STATE CONSTITUTION.

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PROVIDENCE :

CRANSTON & HAMMOND, PRINTERS.

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At the first meeting of the Convention, Thomas W. Dorr, Joseph K. Angell, David Daniels, William H. Smith and Christopher Robinson were appointed a Committee to prepare an Address to the People of the State.

At the second meeting of said Convention, Mr. Dorr reported,—

That the Committee had attended to the subject of their appointment, and were ready to offer an Address for the consideration of the Convention.

The Address having been read, it was voted, that the same be adopted, and printed under the direction of the Committee.

NATHAN A. BROWN, *President.*

WILLIAM H. SMITH, }
SAMUEL E. GARDINER. } *Secretaries.*

NOTE.

The following Address was intended to comprise a Review of the Defects of our present System of Government, and of the Changes most essential for a proper correction of those Defects. The number and importance of the subjects to be treated of have made it necessary to extend these remarks to a much greater length than the Committee would have desired; but they could not have been much abbreviated, without injustice to the Convention and to themselves. In fact each of the great divisions of the extensive field of Political Reform ought to be separately and fully treated, and would of itself furnish abundant materials for an Address to the People. The political evils under which we are now laboring have been gradually accumulated during a long series of years; and cannot be properly investigated in a hasty survey. They ought therefore to receive a careful attention and examination, in order to insure the application of a judicious and effectual Remedy.

☞ The Reader will find the principal topics of this Address at the following pages—

DEFINITION OF A CONSTITUTION, AND WHENCE IT IS TO BE PROCURED.	-	-	-	-	-	10
CHARACTER AND DEFECTS OF THE CHARTER AS AN INSTRU- MENT OF GOVERNMENT.	-	-	-	-	-	13
INEQUALITY OF REPRESENTATION,	-	-	-	-	-	20
EXTENSION OF SUFFRAGE,	-	-	-	-	-	26
QUALIFICATIONS OF VOTERS IN EACH OF THE STATES.	-	-	-	-	-	46
IMPROVEMENT OF THE JUDICIARY,	-	-	-	-	-	57

ADDRESS.

FELLOW-CITIZENS,

Agreeably to an invitation from the towns of Cumberland and Smithfield, Delegates from the following towns in this State, namely, Newport, Providence, Smithfield, Bristol, Warren, Cranston, Johnston, North-Providence, Burrillville and Cumberland, assembled in Convention, at Providence, on the 22d day of the last month, to consult together upon the best course to be pursued for the establishment of a written State Constitution ; which should properly define and fix the powers of the different Departments of Government, and the Rights of the Citizen.

The Resolutions passed at our first meeting have already been submitted to your consideration. We deemed it a duty to those whom we represent, to ourselves, and to the body of the people of the State, whose co-operation we ask, to set forth in those Resolutions, explicitly, and beyond question or misinterpretation, an outline of the proposed Political Reform ; leaving, where it belongs, to those who may be hereafter called to the important duty of framing a Constitution, the task of maturing its provisions.

The articles which we have proposed, we are fully convinced, are indispensable articles in such an instrument ; without which it would be insufficient, unsatisfactory and impracticable,—defective in the distribution of political justice, ill adapted to the wants and feelings of the people, and without the promise of permanent duration.

It was a duty to our *constituents* and to *ourselves*, thus freely to utter and set forth their and our views, sentiments and plans, and to put an end to all conjectures about ulterior and concealed intentions, because we have nothing to disguise, nor con-

ceal,—propose no change in the order of Government, which we do not believe to be clearly right, and because we deem it unworthy of men who live under institutions at least nominally Republican, silently to acquiesce in the longer continuance of a system so defective in its structure, and unequal in its operation. It was a duty to the *people of the State* to announce to them unequivocally the nature and extent of those amendments to their present system, which we offer ; especially, to remove every pretence of uncertainty from that part of our plan, which relates to the enlargement of political rights; and to secure to the great principles of a Constitution the benefits of public attention and mature judgment. And we are happy to be assured that the publication of our plan, in its length and breadth, and all its dimensions, has already had the effect of overcoming the doubts and objections of many, who were opposed to us from an imperfect acquaintance with our views ; and of enlisting their good will and assistance on the side of Reform.

Having met again, for the second time, in Convention, with the addition of delegates from the towns of Scituate and North-Kingstown, we proceed, fellow-citizens, to state and to enforce, more at large, those reasons and arguments, by which the subject of our Resolutions is recommended to the good sense and justice of the people of Rhode-Island, intending to use great plainness of speech, and endeavoring, at the same time, to present our opinions as briefly as the extent and importance of the matters to which they relate will in any wise permit.

There are some preliminary considerations, with which we would occupy a few moments of your time, before advancing to the principal topics which belong to the present examination.

We desire then to disclaim, in the outset, any design or desire of offering the slightest disrespect to the memory, or to the character of our predecessors, who first established that scheme of government, into which we are now anxious to carry the work of reformation. If any pride of ancestry may be indulged in this country, the people of Rhode-Island may honorably exult in those noble forefathers, who aban-

doned their native home, and again, their adopted land, and encountered the dangers of a savage wilderness, for the sake of that great experiment of Religious Liberty, in the blessings of which we all participate. Assembled as we now are, almost within a stone's cast of the ashes of ROGER WILLIAMS, that one of us who should utter a word of disparagement of such a man, or his illustrious fellow-patriots would feel himself rebuked by the Genius of the Place. We revere the names of those venerable ancestors. We glory in our inheritance ; and animated, as we trust (though some of us are but the *subjects*, rather than the citizens of a Republican State) by a portion of their own love of freedom, of their firm purpose, of their zealous and determined perseverance ;—and resolved to carry out still farther into practice the life and purport of those principles which they maintained, at the foundation of the state, we would employ our earnest and unremitted exertions for the correction of defects and errors, which, in the progress of time and change, are inevitably found to exist in the best organized system of Government, and which are, at this moment, so visible and palpable in our own. If we bring to our undertaking any of the ancient, sturdy spirit of Rhode-Island patriotism, we shall deserve, and, in the end, obtain a proportionate success.

Nor is the business, fellow-citizens, in which we are engaged, a mere narrow party-affair, got up to promote the sordid views of personal aggrandizement. The aspect of our assembly, composed, as it is, of men of all the political divisions in the State, affords sufficient evidence to the contrary. We have individually sacrificed no opinions on National affairs ; we intend to sacrifice none : we have asked no one to make this sacrifice ; we do not intend so to ask, nor desire to see it made by any who may act with us. Leaving the field of National politics to every man's previous preferences and attachments, we find, in the present political necessities of our own State, a common ground for friendly and harmonious action. We meet here as brethren and fellow-laborers, and cast aside all personal feelings and prejudices, for the promotion of an object, which is large enough, and wide enough to comprehend within its limits men of every politi-

cal complexion, and all men, who have at heart the public honor and welfare.

There has been too much strife in this State about *Men*, and for the benefit of *Men*; too much *Man-Worship*. Party after party has come into power; and many of us have lent our aid in effecting these party triumphs. But we have had the mortification of perceiving that very little has been done, for the improvement of our political condition, from the fear of endangering this or that man's office or expectation of office,—from the fear of offending, or from a desire to conciliate this or that prominent politician,—from an anxiety to stand well with this or that interest in the community. The fact, and the causes of it have been so apparent, that the mere statement is the sufficient proof of them. And it has been for a long time a certain conviction, in the mind of every accurate observer of political affairs, that nothing but a union of men of different parties could ever promise any very decisive change for the better in the condition of our institutions. In the spirit of concession and compromise upon matters of local politics, we have made this union, under the standard of a CONSTITUTIONAL PARTY.

Few who are seriously in favor of the cause we support will question the expediency, and indispensable necessity of a party organization to insure its success. There must be a head and front to our undertaking. A great political benefit to all parties and classes of men must be brought about by political means. The idea that they who are opposed to a Reformation, or who feel little interest in it, will take any measures for its accomplishment, while its friends remain in apathy, or confine themselves to complaints, resolutions and memorials, instead of presenting themselves in the attitude of political preparation, is too delusive to be encouraged for a moment, and is repelled by all past experience. A party on wide and liberal grounds, such as we hope has now been formed among us, becomes a centre for the accumulation of new forces, it affords a rallying point for the doubtful and hesitating; it collects public opinion, and brings it to bear, in the strongest and surest manner, upon the ends to be attained.

That the present is a favorable time, and the right time for the formation of such a party, we cannot entertain a doubt. The all-absorbing question of a Presidential election has been disposed of for the present, by the re-election of the present incumbent. There is not, at this moment, such a doubtful balance of parties in the State as to give to any attempt at Reform the appearance of being a measure designed solely for the purpose of securing a preponderance to either side. There is also, if we do not greatly mistake the signs of the times, an increasing disposition in all parts of the State, and among all classes of our citizens, in favor of the desired result, founded on the belief of its necessity and justice. In order then to obtain this result, which has been heretofore unattainable by other parties, from the nature of their position, and from other causes, we ask you, fellow-citizens, to approve our design, and to aid us in its execution, if you are already convinced that it is meritorious; or if we shall be able to offer you any arguments adapted to produce conviction. When you are so convinced, the surrender by you of local feelings to the general good, will, we doubt not, be cheerfully and decisively made.

Should you ask us for a more particular expression of our motives of action, we shall make, in reply, no loud profession of good intentions. Such professions, from the too frequent contradiction of them in practice, have fallen under a just suspicion, and are received with a very hesitating confidence by the public. Judge us by our *works*. By them we wish to be tried; and are ready to stand or fall. If we deviate from the straight and onward course which we have marked out, for the furtherance of secondary or sinister ends, we fail, and justly fail in a cause, of which we shall thus prove ourselves to be the unworthy advocates. - But should we proceed with singleness of purpose, with a firm and steady regard to the great object before us,—addressing ourselves with good temper and moderation to the sense and justice of the people,—and if not without reproach, yet above the fear of it, when unjust, we shall not only deserve, but receive the support of our fellow-citizens, and witness the issue of our labors to the honor and advantage of the State.

It would be consuming your time unnecessarily, to enlarge upon the practical evils growing out of the exercise of irresponsible power in general; and which are attendant upon all irregular and fluctuating legislation. To attempt to convince you, by a formal argument, of the truth of this great axiom in political science, would argue a disrespect for your understanding and information of which we shall not be guilty.

It is equally apparent, as a general principle, that a discretionary regulation of the Elective Right, and of the Judicial System, can never be properly and safely vested in the Legislature. In the language of the learned and eminent Chancellor Kent,—“The power of making laws is the supreme power in a State; and the department in which it resides will naturally have such a preponderance in the political system, *and act with such mighty force upon the public mind*, that the line of separation between that and the other branches of the government ought to be marked very distinctly, and with the most careful precision.” (1st vol. Commentaries, page 207.) It will not do to say that the frequency of elections in this State affords a remedy for any evils in the administration of its affairs. Public Opinion, it is true, does operate upon, and in a great degree control the action of the Legislature; but let it never be forgotten that there is always a strong reaction, much stronger than we are sometimes aware, of the Legislature upon the people, in the formation of this opinion. It is in a great measure moulded and shaped by men who hold high stations, with a corresponding influence; and it will ever be the aim of those who exercise irregular power, so to guide and direct the opinion of their constituents, that it shall interfere the least with their own purposes and interests.

We believe then, indeed, we feel positively assured, that the only method of accomplishing political reform in this State is the adoption of a new written Constitution. The great, the single object of our party is the adoption of such a Constitution. This main scheme in which we are engaged necessarily involves in it several important subjects, that require to be treated of in detail. We propose, in the first place, to make known, and in as few words as possible, what we

mean by a written constitution ; and we will endeavor to designate, at the same time, the legitimate and proper source, from which, as we conceive, such an instrument is to be procured.

A Constitution is the *fundamental law* of a State. It is something intended to prescribe the powers and duties of government, and of the separate branches of the government ; and also to establish the qualifications of electors, and generally to define the rights of the citizen. It may consist of an aggregate of laws and usages, like the Constitution of England ; or, it may be a written instrument, like the Constitution of the United States. There are two classes, at least, of written Constitutions. The people of Rhode-Island require not to be informed, that there is one class of written constitutions consisting of such as are granted by Monarchs to their subjects ; in which class are included the charters derived from the British crown, and granted to the several Colonies of North-America ; and under which all the colonies were for a certain period governed, and until they became independent States. But there is another class of written constitutions, with which the people of Rhode-Island have been less conversant ; although it is the class, which, upon just principles, can be most successfully advocated. This class comprises the Constitutions which come directly from the *free and sovereign People* ; being such as do now exist in every State of the Union, with the single exception of Rhode-Island.

When the American States severed the political tie which formerly bound them to Great Britain, all obligation to acknowledge obedience to a British Charter, as a Constitution of government, was, of course, dissolved ; and the people of each State were left free and sovereign. The people of each State, upon the happening of that momentous event, became equally tenants in common of the right of sovereignty ; and all were equally entitled to a voice in directing what should be established as the fundamental rules of government, or in other words, what should be the Constitution. The sovereignty of the King of England passed, therefore, not to the Governor and Company of Rhode-Island, but to the People

at large, who fought the battles of the Revolution, and to their descendents. These positions are neither new, nor indefensible. It has been judicially, and by one of the earliest appointed Judges of the Supreme Court of the United States, declared, that "the Constitution is the work of the people themselves, in their ORIGINAL, SOVEREIGN and UNLIMITED capacity."*

The learned Judge to whom we refer, on the same occasion, described what was then understood in this country by a constitution. "A Constitution," he says, "is the form of government delineated by the mighty hand of the People ; in which certain first principles, or fundamental laws are established." It is, he adds, "certain and fixed ;" it contains "the permanent will of the people," being "the supreme law of the land," being "paramount to the will of the Legislature," and liable only "to be revoked or altered by those who made it."

There is one fact which of itself is adapted to awaken attention, and it is, that such a constitution as has just been described, has been established in every State except our own. That the people of Rhode-Island retain their inherent right to establish (in their original, sovereign capacity) a Constitution, cannot for a moment, be doubted ; inasmuch as they never have made a surrender of it either directly or indirectly. Whenever therefore the people shall see fit to organize a government under a constitution of their own making, every good citizen will cheerfully submit to it. The important question then to be examined is—Has there been, or is there now, less occasion for a new written Constitution in Rhode-Island than in any other State of the Union ? A moment's consideration makes it appear at least probable, that some amelioration in the condition of the people of the State could be effected by substituting a new Constitution in the place of a British Charter, which was written out more than one hundred and seventy years ago, when the checks and restraints upon government, in no part of the world

* See the Charge of Judge PATTERSON to the Grand Jury, in the case of *Van Horne v. Dorrance*, in the Circuit Court of the Pennsylvania District, in 1795 ; reported in 2 Dallas' Rep. page 304.

were so well adjusted, as they now are, to the maintenance of rational liberty. In Rhode-Island, as elsewhere, the object of government should be understood to be the welfare of the people generally ; an object not to be arrived at without taking as a guide the everlasting principles of liberty and justice. Liberty and Justice are no idle, nor insignificant words. In the whole range of human language there are no two words more pregnant in meaning. They comprise, as a part of their definition, restraints upon rulers, protection against legislative aggression, and a perfect guaranty of the rights of the citizen. Are these great objects properly secured by the Charter of Charles II. ? We propose, in answer to this question, and in the spirit of candor, to consider that instrument with some attention.

We begin by inquiring whether it be consistent with the spirit of the Declaration of American Independence, and becoming the character of Rhode-Island Republicans, any longer to acknowledge the charter of a British King as a Constitution of civil government ? If the trappings of royalty appended to this instrument were taken away, would it not be better suited to a people who have changed the name of "*subjects*" for that of *citizens*, even allowing it to be in all other respects, perfect ? These royal supplements of "especial grace, certain knowledge, and mere motion" are the badges of our former colonial dependence; and are as inappropriate to our present condition as the habiliments and toys of childhood are to the proportions and habits of a more mature age. The Declaration of Independence, which severed forever the connection between Great Britain and the Colonies, should teach us a lesson on this subject; and it is this,—that, retaining all which is valuable in the provisions of the old Charter, we ought long since to have discarded its form. But it will be said, are we not all Republicans; and is there any thing in the *name* of Royalty to affright us ? In the political world, more than any where else, *names* are *things*, as we all know by experience: and if but a single person, in his inquiry after political truth, and the principles of republicanism, should be misled or offended by the senseless formularies of "divine right," in which our grant of govern-

ment is wrapped up, then ought we forthwith to assume both the form and truth of the Republican system. But admitting, merely for the sake of argument, that the form of the Royal Charter, with all its monarchical appendages, subsists as firmly as when the seal was affixed to it, and that it was derived from a proper source, a far more important inquiry yet remains to be made. Are the Powers and Duties of the different Departments of our Government properly marked out and defined by the Charter ?

When we take into view the time at which, and the objects for which the Charter of King Charles II. was granted, we freely admit it to be in many respects a very good instrument. There is however but one of the provisions contained in it, involving legislative power and popular right, that was calculated for all future times. The provision referred to is, *That no person shall be called in question for any opinion in matters of Religion, who does not actually disturb the civil peace.* In a Constitution for this State, this provision of the Charter should be scrupulously preserved. It cannot be copied too literally, nor retained too tenaciously, the act of the General Assembly, excluding Roman Catholics from the polls, to the contrary notwithstanding.

The main object in procuring the Charter of Charles II. was not to define with exactness the powers of the government it constituted ; but it was to define territorial boundaries, and to secure a permanent union of all portions of territory under one domain. This is not only fairly to be presumed from the face of the Charter itself, but it still more clearly appears by a recurrence to the circumstances under which that instrument was solicited and obtained from the government of the mother country. It is a matter of some interest to understand what the circumstances were under which it was solicited and obtained. It appears, that originally the town of Providence constituted a distinct jurisdiction by itself; and so also did the island of Rhode-Island; and Warwick likewise. These several territorial divisions became first united, and were first brought within one jurisdiction, by the charter of 1643. This charter is very short, and is very loose in its terms. It embraces a general power to

establish such a government as should be agreed on by the "voluntary consent of all." In obtaining this voluntary consent in favor of uniting and consolidating different portions of territory under one government, there was much difficulty; for it was not until the year 1647, that a general government was agreed upon and established. In that year was the first General Assembly convened; and the place of convention was the town of Portsmouth. The government thus established was dissolved in 1651, by another Charter obtained by Coddington (constituting him governor): and this Charter severed the islands of Rhode-Island and Conanicut from the connection which they before had with Providence and Warwick. Though Coddington's Charter was soon vacated, a re-union of the several towns was not immediately thereupon effected; but on the contrary, Representatives from Providence and Warwick met at Providence, while another Assembly met on the Island. When a re-union took place, which, after much difficulty, was effected, it became an object to perpetuate it; and for this purpose, principally, was procured, in 1663, the Charter of King Charles II., which still exists as the nominal Constitution of the State.

That Charter is so superabundant in words, and oft repeated recitals, that no inconsiderable degree of patience is required in extracting from it its exact meaning and import. The only Constitution of government it prescribes may, in plain and more modern language, be embraced within a very small compass. After appointing a Governor, Deputy Governor and Ten Assistants, to continue such until the first Wednesday in May next ensuing, it then provides that those officers shall be elected, on the first Wednesday in May in each year, at Newport, "by the greater part of the said Company for the time being who shall be then and there present." The officers just named, with six persons from Newport, four for each of the respective towns of Portsmouth, Providence and Warwick, and two persons for each other town, to be elected by the major part of the freemen of the respective towns, are to hold a General Assembly, twice in every year; namely, on every first Wednesday in the month of May, and on every last Wednesday in the month of October, or oftener,

if it shall be requisite. The members, or the greater part of the members, constituting this Assembly ("whereof the Governor, or Deputy Governor, and six of the Assistants, at least to be seven") are invested with the following general Powers, viz ;—To alter the times and places of holding the General Assembly;—To admit free such persons as they may think fit ;—To create such offices, and elect such officers as they shall deem requisite ;—To make and repeal such laws, forms and ceremonies of government as shall be deemed advisable;—To establish Courts and appoint Judges;—To regulate the manner of election to offices and places of trust;—To prescribe the number and limits of new towns ;—and finally, to use the sweeping words of the Charter, "To direct, rule, order and dispose of all other matters and things as to them shall seem meet."

It will be perceived then that the Powers conferred by the Charter for the organization and administration of the government, afford so much latitude, and are of such indefinite import, as to leave a great deal too much to the discretion of the Legislature; more especially, as, since the Declaration of Independence, no appeal can be had, as formerly, by an aggrieved party, to a tribunal of the mother country.* Further than this, a variety of instances can be pointed out, which show that the General Assembly have heretofore considered the Charter an instrument conferring upon them a dominion entirely discretionary.

The Charter, as we have already seen, provides that the Governor, Deputy Governor and Assistants are to be elected on every first Wednesday in May, at Newport, by a majority of the voters then and there present. This provision the General Assembly have deemed themselves competent to annul. By an Act passed in October, 1664,—less than a year after the public proclamation of the Charter, which was made at Newport, on the 24th of November, 1663,—it was provided that all freemen who so desired, instead of coming in person to Newport to vote for General Officers, on the first Wednesday in

*The General Assembly, at the June session 1719, went even so far as to cut off the liberty of appeal to the King in council, unless the matter in controversy was of the value of Three Hundred Pounds.

May, might vote in lawful town meetings; where their proxy votes should be received, and thence transmitted to the General Assembly.

In August, 1760, voting at Newport was entirely prohibited, except to members of the General Assembly; and the voters were directed to vote in their respective towns on the third Wednesday of April.

We have perceived too that the Charter provides, that the Freemen are to be admitted by the General Assembly; whereas the General Assembly, directly contrary to that provision, enacted in the year 1666, that the freemen should be admitted by the freemen of the respective towns, in town-meeting.

The Charter also appoints that the Governor, Deputy Governor, and Assistants, with the Representatives chosen by the several towns, shall hold a General Assembly, without any provision for forming two separate Houses; and yet, by an Act of the General Assembly, passed in 1696, the Governor, Deputy Governor and Assistants are to sit separately.

The act authorizing a Lieutenant Governor, or senior Senator to discharge the duties of Governor, in case of a vacancy by non-election, death or resignation,—or of his absence or inability, is another instance of the exercise of a sovereign discretion by the Legislature, for the purpose of remedying a defect in the Charter.

We wish to be understood, that we consider neither of the above Acts in itself objectionable. We have pointed them out merely as being essential deviations from some of the most precise directions set down in the Charter.

But what must be thought of the Act of the General Assembly* excluding *Roman Catholics* from the polls? The

* The Act of February, 1783, extends to *Roman Catholic* citizens all the Rights and Privileges of the *Protestant* citizens of this State, as declared by the act of the first of March, 1663—4, "any exceptions in the said act to the contrary notwithstanding." (see the last paragraph of this note.) The clause of exclusion in this act—"Roman Catholics only excepted"—was evidently added to the act of 1664, long afterward, sometime between the years 1719 and 1730. It is not to be found in the records of the State so far down as the year 1719; when the first (imperfect) edition of the Laws was published. In the second edition, of 1730, it appears for the first time. The Legislature therefore, when they spoke of this clause as a part of the act of 1663—4,

Charter, in this instance, was treated as a perfectly dead letter; for it expressly provides—"That no person within the said Colony, at any time hereafter, shall be in *any wise* molested, punished, disquieted, or called in question for any differences of opinion in *Matters of Religion*, who does not actually disturb the civil peace." Professors of the Roman Catholic faith were, by the act of tyranny referred to, not only "molested" and "disquieted," but "punished;" and that too, by denying to them the inestimable right of suffrage!

To come down to a later period—Soon after the State was, with the other States, acknowledged Free and Independent,

must be understood to have considered it as an addition or amendment. The present Charter was granted in July 1663; and it is altogether incredible that Roger Williams and his associates, then members of the Legislature, should have consented, four months after the reception of the Charter, to an enactment so directly contrary both to the letter and spirit of one of its most essential provisions; for the establishment of which they had used such strenuous exertions. There is extant in a work of Roger Williams, printed in 1652, a full recognition of the religious rights of Papists. If any doubt remained upon this question, it would be removed by the declaration of the Assembly in May, 1665, in answer to the King's Commissioners, That equality of civil and religious rights had been "a principle set forth and maintained in this colony, *from the very beginning thereof.*"

Whatever, then, may have been the occasion of subsequently inserting this clause of exclusion in the Act of 1664 (and it seems probable that it was done to prove the loyalty of the Colony, in the contest between the Government and the Pretender to the throne of England,) it was suffered to remain in three editions of our Statute-Book, as a part of the law of the land, for more than fifty years; and, as far as we can learn, unquestioned as such by any one. So flagrant a violation of the Charter proves conclusively, that the Legislature then, as they did afterward, and do at present, considered and treated that instrument as if it were entirely subject to their control; and that they claimed and exercised an undefined power similar to that of the English Parliament.

It ought to be added here, that what is called, in the act to remove disabilities from Roman Catholics, the Act of the first of March, 1663, is, in fact, the Act of 1st March, 1664. The commencement of the civil and legal year, it will be recollected, was anciently on the 25th of March; and was not altered to the 1st of January, in the British Dominions, till the year 1751, by Act of Parliament. The Charter was granted, in the *fifteenth* year of Charles II, (1663.) The Act of 1663 above mentioned is stated in the margin of the printed copy to be of the *sixteenth* year of Charles II, which of course was 1664. All laws passed before the 25th of March would be dated as of the year preceding.

the General Assembly presented a singular example of high handed prerogative. The Judges of a Court, in discharge of their imperative duty, had ventured to decide that an Act passed by the General Assembly, and deeply affecting the rights of a citizen, was repugnant to the great principles of liberty contained in *Magna Charta*, and was incompatible with the acknowledged rights of even British subjects. For thus daring to deny an unlimited and irresponsible power in the General Assembly, those Judges were arraigned before that body, when they barely escaped being punished with dismissal from office. The conduct of the General Assembly in that instance, comports well with the declaration made by one of the most prominent members of the House of Representatives, while standing in his place, viz. that the Legislature of Rhode-Island was OMNIPOTENT. This declaration was made within the last twenty years, and cannot have escaped the recollection of many now living.

The General Assembly would not have proceeded as they did in the case just mentioned, had they not been emboldened by the Charter, which leaves it in their power to make and unmake Judges once a year, or oftener if they see fit. Is not this a capital defect? We shall have more to offer on this subject by and by.

What shall we say of an Instrument of Government which is uncertain enough to leave it to be made a question, whether upon a failure to elect a Governor and Senators, the Government itself fell through, and with it the Legislative Acts of the ensuing year, the Titles to a large amount of property, and the Proceedings and Decisions of the Courts? We shall say, if we are just to ourselves, that it should be forthwith dispensed with, and that a new one should be adopted by the People without delay.

The Charter is farther essentially defective in having affixed a certain Representation to each town for all time to come; thus making no provision for the changes that might happen.

No form of a Constitution can be worth much, which leaves to the Representative Servants of the People the power of determining the Rights of the People as voters. The People

ought always to do this for themselves, and not leave it to be done for them. Strange mistakes sometimes happen from this neglect; as in this State, where it has become necessary to ask *Who the People are ?* More on this subject in another place.

Who will say by what right the towns of North-Kingtown and South-Kingstown are singled out from the other towns in the State, by the act of June 1722, and each entitled to a Senator ?

In May, 1778, the first Senator having declined serving, the General Assembly *promoted* each of the other Senators one degree higher, and *elected* a new tenth senator !!

Without citing any more examples, we appeal then to our fellow-citizens, and ask them whether there does not exist abundant reason for proclaiming what was expressed in one of the Resolutions passed at the first session of the Convention, namely,—That the Powers of the Legislature, and the Rights of the Citizen should be defined and fixed by a written State Constitution ?

A subject of just complaint, and one which loudly calls for the corrective hand of a Constitution, is the extreme **INEQUALITY OF OUR REPRESENTATION**. This evil has been entailed upon us by our strange adherence to the Charter of Charles II. This Charter provides (as we have seen) that the towns in the State shall be represented by “not exceeding six persons for Newport, four persons for each of the respective towns of Providence, Portsmouth and Warwick, and two persons for each other town.” At the time the Charter was granted, this was a fair and equal apportionment of Representatives, according to the relative population of the several towns. But since that period, the relative population of our towns has so greatly changed, and so many small towns, entitled to two representatives each, have been incorporated, by dividing and sub-dividing larger ones, that the Freemen of this state are now very unequally and unfairly represented in our State Legislature. In order to show the extent of this inequality, we ask your attention to a few statements, which you will find fully supported, by referring to the official returns of votes polled, in

each town at our recent elections, and by comparing the number of these votes with the number of Representatives to which each town is entitled by the Charter.

At the last spring election, the whole number of votes polled in all the towns in this state was 7317. One third of this number is 2439. Our House of Representatives consists of 72 members. 38 of these (being a majority of two members) were elected by 2384 qualified freemen,—less than one third of the qualified freemen of the State who then voted. The remaining 34 members were of course elected by the remaining 4933 freemen. The result is about the same at our other elections.

Half the freemen or (more properly speaking) qualified voters in the State amount by the returns to 3658. 51 Representatives (being a majority of 15) are now elected by 3637 voters; less than half the qualified voters in the State. The remaining 21 Representatives are of course elected by the remaining 3680 qualified voters.

By descending a little to particulars, we shall find instances of inequality still more unjust and indefensible. The town of Jamestown, for instance, sends one Representative to every 18 freemen;—while the town of Burrillville sends but one Representative to every 113 freemen; the town of Foster but one Representative to every 156 freemen;—the town of Smithfield but one Representative to every 206 freemen;—and the city of Providence but one Representative to every 275 freemen.

Thus our system supposes that one freeman of the town of Jamestown is entitled to as much political weight and importance as 6 freemen of the town of Burrillville, 8 of the town of Foster, 11 of the town of Smithfield, and 15 of the city of Providence. It consequently takes 6 freemen in Burrillville, 8 in Foster, 11 in Smithfield and 15 in Providence, to equal one freeman of the town of Jamestown. The result will be very similar by comparing other small towns with larger ones.

An inequality of representation like this is too unjust to be much longer tolerated. It is not uncommon in the monarchies of Europe; but, with the single exception of Rhode-Island,

it is unknown in the United States. It was never intended by our venerable ancestors who procured the Charter; and, if Roger Williams were now to rise from his grave, there can be no doubt that such inequality would, of itself, induce him to take the lead of a political reformation.

If the number of representatives from each town be compared with the whole population of each town, the result will not materially differ from that to which we have arrived in considering the representation of qualified voters only.

The whole population of this State, according to the Census of 1830, is 97,210. One third of this number is 32,433.—31,318 (being less than one third) are now represented by 38 members of the House of Representatives, being a majority of 2 in that body. The remaining 65,892 are, of course, represented by only 34 members.

Half the population of the State is just 48,605. 47,365 (being less than half the population) are now represented by 51 members of the House of Representatives, being a majority in that body of 15. The remaining 49,845, are, of course, represented by 21 members only.

Of the twelve most agricultural towns in the State, the six largest have less than one third the weight of representation in our Legislature that the six smallest have: yet this inequality is represented by some as a mere question of interest between the agricultural and manufacturing towns.

This inequality of representation has had the effect of placing the majority of the qualified voters in this State, under the control of the minority. This is as certain as the fact that figures speak the truth. Now who does not see that upon all questions in which the local interests of this minority are adverse to the local interests of the majority, they will unite against the majority? And who does not see that whenever they *do* so unite they will control the majority? It is an odious feature of our present system, that it has given a local character to some of the most general and vitally important questions of legislation. What, for instance, can be more important than a just and equal apportionment of taxes? And yet our present system of representation has given a minority of the Freemen both the interest and the power, to per-

petuate an unequal and unjust apportionment. What can be a more important object of legislation than to establish a just and equal representation of the people? Yet our present system has given to a minority of the Freemen both the interest and the power to continue our present unequal and unjust representation. Our present system is at war with the prosperity of the State. Is not the contemplated accession of territory, wealth and population from the State of Massachusetts important to our interests? Yet our present system has given to a minority of the Freemen both the power and the local interest to defeat this accession.

Now it is one of the essential parts of the definition of a Republican Government, or Representative Democracy, that it is *a government resulting from the will of the majority, ascertained by a just and equal representation*. Is that government, then, where the will of the majority is not ascertained by a just and equal representation, but where the will of the minority controls that of the majority, a Republican Government? Is it not, in effect, whatever may be its forms, an Oligarchy—or *the Rule of a Few*? How, indeed, can we better define an Oligarchy than by calling it a government in which the less number, not by the power of virtue or talent, but by a political appointment, rule the greater? Whether this minority be a small or a large minority does not alter the principle. A large minority has no more right, on republican principles, to rule the majority than a small one. Even a large minority, especially in a small State, is easily brought under the control of a few leading men. We have seen, that in this State the Legislative power is placed, by the inequality of our representation, in the hands of less than one third part of the qualified voters. These elect a majority of the Representatives. A few political managers, who give themselves to the business, have but little difficulty in managing such a minority in this small State, and in ruling the whole State as they please, against the will of *two thirds of the freemen, and three fourths of the people*. It is not strange, therefore, to find some men of all parties very unwilling to disturb the present order of things.

We by no means contend that representation ought to be proportioned to the amount of property represented, or to the amount of taxes paid. The citizen of small property, who pays a tax in proportion to his means, is as much entitled to a voice in the appropriation of that tax, though small in amount, as the most opulent man in the State. The same principle is applicable to towns and counties.

The True Basis of Representation undoubtedly is that adopted by the Constitution of the United States,—*Population*: for the representative represents not only the interests of the independent freemen, who are his immediate constituents, but also the interests of the whole population who are dependent upon, or connected with them; and property is so equally distributed among the people in our country, that the practical effect of adhering to this basis is, that those who pay the *expenses* of government will have a fair voice in the *measures* of government. We have seen that the relative changes in our population, and the incorporation of small towns have combined to change this basis; and it is certainly an aggravation of this evil, that it has carried along with it an extravagant disproportion between our representation and taxation. This will be made perfectly evident by comparing our present ratio of representation with the act of the General Assembly, passed in 1824, establishing a valuation of the ratable property in every town in the State as a rule of taxation. It will be found by referring to that act, that the taxable property in the County of Providence amounts to 1,650,000 dollars more than all the taxable property in all the other Counties in the State; and yet the County of Providence has considerably less than one third of the representation which those Counties have. It will also be found that the taxable property in six of the towns in this State amounts to about the same as the taxable property in the other twenty-five towns: yet these six towns elect but fourteen representatives, while the other towns elect the remaining fifty-eight representatives. It will also be found that some of our country towns pay *five*, others *six*, others *seven*, others *eight* and others *nine* times the amount of taxes paid by other country towns, having the same number of representatives

as the former; and yet this subject has often been represented as a mere question of interest between town and country.

These statements prove that the portion of our people who pay the weight of the taxes are deprived of their fair numerical influence in the *appropriation* of these taxes. Is this just, fellow-citizens? Is it right? Will posterity believe that we are the sons of those men of Rhode-Island who were foremost to shed their blood and expend their treasure, in humbling the power of Great-Britain "*for imposing taxes upon us without our consent*"? Certainly those who pay the weight of the taxes are entitled to be equally represented, in proportion to their numbers, with those who do not. This is all we ask for them. But to crowd them down below the level of their equal rights with one hand, and to keep the other hand in their pockets, only because time and accident have given us the power to do so, is unworthy of the successors of Roger Williams,—unworthy of the land of Greene, Olney and Perry!

Strange as it is, the State of Rhode-Island, so far famed for *Religious* liberty, seems to have become insensible to the claims of *Political* liberty. It is the only State in this great Republican Confederacy in which the People have not limited the power of their Legislature by a written Constitution;—the only State in the Union in which the People suffer a fair and equal representation of their interests to be defeated by a *rotten borough system*, almost as odious as that which the subjects of the King of Great-Britain have too much republican spirit to endure, and which they have lately in a great degree corrected by a Parliamentary Reform.

The remark of one of our own citizens is but too true, "that the great foundations of Republican Liberty and Equality have virtually ceased to be the basis of the Government of Rhode-Island." He might have added, with equal truth, that "the evil is only to be remedied by a CONSTITUTION; a constitution founded upon enlightened and just principles, and approbated and adopted by the voice of the People."

You have just seen that *Thirty-Eight*, two more than half of the Representatives to the General Assembly, represent *less than one third* of the population of the State, namely, *Thirty-one Thousand three hundred and eighteen* inhabitants; and, after

adding that a Majority of that number of inhabitants have no voice in the election of those Representatives, it will be time for us to advance to the very important inquiry, whether the Minority of a Minority ought any longer to govern this State; or, whether there ought to be such an **EXTENSION OF SUFFRAGE** as to include among the voters a Majority of the people. And in prosecuting this inquiry, we have a just claim to your patient attention, even if our remarks should be protracted to a length in any degree proportioned to its great interest and magnitude. A question relating to the rights and disabilities of more than *Thirteen Thousand* * of your fellow-citizens cannot be hastily and carelessly considered and dismissed, without such an imputation of indifference toward their feelings and claims, both in those who offer reasons, and in those to whom those reasons are addressed, as would be alike discreditable to our candor, justice and patriotism.

We contend then, *That a participation in the choice of those who make and administer laws is a Natural Right; which cannot be abridged, nor suspended any farther than the greatest good of the greatest number imperatively requires.* And this greatest good is not that of any portion of the people however large, but of the whole population of a State. It may seem strange that a fundamental truth like this, which contains the very life-blood and vitality of a Republican Government, should be called in question at the present day, and in our own country. But it is nevertheless true that there are those, who while they yield a formal and guarded deference to this great doctrine, yet in their reasoning and practice destroy all the force of their hollow and doubtful admission; and maintain doctrines, which, if followed out to their legitimate consequences, would justify almost any exercise of irresponsible and unjust power.

*The number of the white male citizens of this State, over the age of twenty-one years, according to the last census, exceeds Twenty-three Thousand. Ten thousand would be a very high estimate of the number of Freemen: probably a thousand too large. But say there are ten thousand Freemen in the State; it then becomes a matter of the utmost importance to examine a Legislative provision, which excludes the whole of the remaining Thirteen Thousand and some hundreds from all political privileges.

In order to comprehend more clearly the nature of the political right to partake in the choice of Rulers, let us see, in the first place, how rulers came to exist.—A Nation, or State, is a collection of families, held in union by their consent to a form of government for the whole, either express, or implied. This union for purposes of defence, and for the security of previously existing rights of person and property,—founded on the great law of nature, written in every man's heart,—takes place, of course, at the first settlement of a country. In the early and rude ages of the world, and to the present period among uncivilized people, personal strength, courage and fortitude are the only recommendations to public favor; and the affairs of government are usually entrusted to men of war and prowess. In the course of time, the power thus delegated,—having become fixed in the hands of those who hold it, by means of military force; or in other hands, like theirs, by conquest, with the aid of the long train of frauds, and artifices, which might enlist in its service against right, all over the world,—was transmitted, like property, to their successors, who under the names of chiefs, kings, and other appellations to designate the post of supremacy in a state, thenceforth became the established sovereigns of the different nations of the earth.

That the elective process, which has been described, is not the mere fiction of speculative writers, but actually took place, at some remote period in the history of almost every country,—in the old world, for instance, in the progress of population westward, from its earliest seat in the east,—is rendered almost certain by what we know of the institutions of our remote progenitors in the forests of Germany, and by the laws and usages of government in some of the aboriginal tribes of this continent. It was adopted among ourselves by the Pilgrim Fathers, who, when they had passed beyond the execution of English laws, proceeded to form a plan of government, by mutual consent and natural suffrage, which was carried into effect upon their arrival at the rock of Plymouth. The proceedings of Roger Williams and his associates furnish another striking example; and, if we are not greatly mistaken, the accurate history of some of our

Western settlements, at the early period, when the hardy pioneers first buried themselves in the forest, beyond the reach of civilization and law, would elucidate this problem of the formation of government, and fully sustain the suggestions that have been offered.

As a general rule then, Government was first formed by the act, and with the consent of those who were to be governed, given either expressly, or by acquiescence. And what did government confer upon those who established it? Here lies the radical error of those who contend that all Political Rights are the creatures of the Political Compact. Those reasoners will tell you about rights created by society. We wish to ask previously what those rights were, which existed before political society itself. Those rights were the Rights to Life, to Liberty, to Property,—in general, to the Pursuit of Happiness. Life was the gift of the common Maker of all; and could not be taken without committing the greatest act of injustice, which one man can commit against another.—Personal liberty too, the right to walk abroad upon the face of the earth, was another natural right.—The bounties of nature were all at the beginning spread out before the human race for their sustenance and enjoyment; and he who should appropriate the fruits of the earth to his own use,—and more especially those with which he had mixed his own labor, by the cultivation of the soil, had a just right to repel the invasion of him who should seek to dispossess him of what he had acquired. This was the natural right to property.—Each individual also had the right of pursuing his own happiness, in the way which he might prefer, provided he injured no man in the enjoyment of the same right. Another great personal right, already alluded to, has been reserved for the last: *it is the Right which every man, among the families by which nations were composed, had, of giving or withholding his voice in every question relating to the union of those families in a form of government; and of removing from its jurisdiction if that union were formed against his consent.* The existence of such a natural right is too evident to be disputed. And so far was it from being surrendered when government was once formed, that its continuance was absolutely necessary to maintain the ex-

istence of that government, by the re-election of new magistrates, when the terms of those first elected had expired. This right is the very *Right of Suffrage* which is the burden of our present inquiry ; and which we call a Natural Right. *Political Society could not confer that right or power upon its members, by the exercise of which it first came into existence.* In other words, Man, in the exercise of his natural rights, made Government ; and government did not give to man his rights. Why then, it will be asked, was government established at all, if not to give rights ? We will answer by saying that *the end of Government was to make previously existing rights, conferred by the hand of God, more secure.* Where men live in families, as we have described, without laws, each man is the natural, and, in most cases, the sole, protector of his own rights. If life, liberty, property and happiness be threatened or invaded, each man is then obliged to defend himself against the aggressor ; and victory will attend not upon the best right, but upon the strongest arm.—The portion of land appropriated out of the common stock to individual uses will be liable to continual invasion.—Individual happiness will be perpetually insecure.—The right of Suffrage, which we have shown to exist, but for which there is no use, in this state of things,—at last brings men of different families together, and they agree to certain laws, and upon certain magistrates to execute them ; thus freeing themselves from the necessity of perpetual warfare individually against individuals, in private defence. This is Government. It does not *give* rights ; but it defines and defends them. Examine the most extensive collection of laws in existence, which has been gradually accumulating for ages,—from the necessities of men in their various relations to each other,—and which has been matured by the wisdom of the most enlightened legislators and judges, and you will not find one just law in the whole of it which is not designed to promote and protect some one of the great natural rights, which existed before written law and political society itself. Government then being designed to accomplish a greater good for each man than he could single handed secure to himself, the Greatest Good of the Greatest Number must be the everlasting criterion of all governments, in all ages and parts of the

world: and it is the duty of patriots and philanthropists, whenever this greatest good has been disregarded, in the abridgment or suspension of natural rights, to endeavor to bring back government to its original and just principles. The idea of surrendering natural liberty, in any proper sense of that word, upon entering into political society, in consideration of the benefits to be derived from it, is one of those preposterous fictions with which day-dreaming men have so long abused the easy credulity of mankind; and which despotic rulers most readily embrace, that they may, with a greater appearance of justice, enslave and oppress their fellow-creatures. A man upon entering into political society, surrenders to the magistrate *the protection* of his rights, and not *the existence* of the rights themselves.

It is very common to attempt to make a distinction between the right of property and the right to participate in political power, founded on the fact that the former is so much less interfered with by governments than the latter. From this fact the inference is drawn that the former is a natural right, and the latter is not. The fact of interference is true, but the inference is not correct. A despotic government will, for its own sake, respect the rights of property; but will carefully suppress all political rights, as coming in contact with itself. And yet, various restraints on the holding of property have prevailed and now prevail in different countries: and the examination of them would be very much to our purpose, if time permitted. The reason why an enlightened regard to the best good interferes so much more with political rights than with the right to hold property, is found in the different directions which these rights take in their exercise. In acquiring property a man directs his attention to the productions of nature and of industry, and to the various exchanges of them; and the more who are at work in this way, the better for the public. The right of voting brings a man in contact with his fellow-citizens in matters of right and interest, and controls the legislation by which the latter are protected. And there will be a great many who are too ignorant to exercise it to the advantage of the whole.

It is also objected to the doctrine of a natural right of suffrage, that Minors and Females are excluded from political privileges. The first part of the objection, regarding minors, proves too much for the objectors; for as the minor is debarred from the full enjoyment of the right of property also, until the age of twenty-one years, it might be argued, with equal show of reason, that there is no natural right of property; for which right the objectors strenuously contend. But the truth is, that the restriction upon minors does not conflict in the least with any natural right; it acknowledges their rights, and only decides the period at which they shall commence and be exercised. This decision is not arbitrary; but founded on a just observation and experience of human nature and character. It is necessary, before the young man can enjoy any of his natural rights to his own advantage, or with safety to the general good, that he should be able to take care of his own interests, should have attained to some knowledge of himself, of affairs, of mankind, of the nature and operations of government. True it is that some are better qualified for political action at the age of eighteen, than others at the most mature and vigorous period of life. But, as a general rule, twenty-one years are not too long a time to acquire the requisites for the full enjoyment of civil and political rights. If men were born into the world in the full possession of their physical, mental and moral powers, without the necessity of development, exercise and cultivation, then there might be some force in the objection which is offered. But as this is not the case, the rule of all civilized countries, which postpones a man's majority until he has obtained the stature and capacity of a man, is founded on a just deference to the greatest good of the whole, without infringing upon individual rights. This rule is merely the continuation of a law of nature, enforced in the families of which we have spoken, before the formation of political society.

With regard to the exclusion of women from the exercise of political power,—we are far enough from denying to them the possession of natural rights. It is well known that they formerly exercised the elective franchise in one of the States of this Union—New-Jersey; and now that they have ceased to do so, the suspension of their rights rests, not upon any

decree of mere force, but upon a just consideration of the best good of society, including that of the sex itself. Their own assent, it should be added, confirms this arrangement of their natural protectors; and being fully aware that the dignity and purity of their sex, character and example would be soon impaired in the conflicts of party strife, they have wisely consented to forego the nominal exercise of political power, and to rule mankind by the only absolute authority which is consistent with their greatest happiness. There is only one criterion of this abridgment or suspension of the rights of our nature,—to which we have frequently referred: and if the greatest good of the greatest number do not require the exclusion of women from our political assemblies, in accordance with the decision of those countries where they are most honored and esteemed, then is this exclusion unjust. The inquiry, in each case, is strictly a question of fact. Any other exclusion of individuals, or classes of persons must be tried and decided by the same rule.

But to proceed,—Political Liberty is not, then, as we hear it sometimes said, the after-growth of refined and cultivated ages, but it is the spontaneous offspring of a natural sense of right and justice; and though harsh in some of its features, in an uncivilized age, it may still vigorously exist, and even then contain within its rude forms the germs of those institutions, which shall become the boast and the glory of subsequent and more enlightened generations. To him who studies the philosophy of history, it is a matter of surprise and pleasure to discover, in the government of the ancient Germans, the elements and principles of liberty which make the most valuable portion of the Constitution of England, and which have been carried out, and so greatly improved in our own admirable form of government.

If at all successful in our investigation, we have arrived at the conclusion, that government was designed for the protection and perpetuation of rights,—not derived from itself, but natural and inherent,—in such a way as to promote the greatest good of the whole: and that the question now before us is not what right of suffrage the government ought to *grant*, as a gift, but with what restrictions required by this greatest good, suffrage may be *claimed* as a right by the people of this State.

Is it consistent with this general good that the present landed qualification should be any longer continued as the exclusive condition of exercising the privilege of an elector ?

As we are addressing Republicans, who believe that a republican government is the only one which truly consults the rights and happiness of the people, if we should show that the present restriction is, in its operation, inconsistent with republican principles, then we shall secure the aid of all those who consistently hold those principles, in having this restriction removed.

While the general welfare is the great aim and object of the American plan of government, most of the governments of the old world are constructed and operate for the benefit of the few, at the expense of all the rest. The original principle of equality of suffrage at the formation of political society has been set entirely at nought; and you will see a despot whose remote ancestor was elected to the head of a state, on account of his valor and achievements, now claiming to rule over their descendents by divine right, and to exclude them from political privileges. The effect of this kind of government and of the artificial condition of society connected with it, is to place all the wealth and power of the country in the hands of the intelligent few; and, beyond the middle classes, at the other extremity of the body politic, to create a mass of poverty, ignorance and degradation, which is incapacitated to participate, to its own good, in the government of the country, and unfit to accept of a better government if it should be offered. This is the most dreadful effect of a long-standing despotism. In such a state of society, where the vast majority are taught to regard the few who rule them as a higher order of beings,—are imbued with a feeling of entire servility, and have lost that of personal worth and independence, a true lover of his fellow-men may well hesitate about the propriety and the safety of suddenly introducing a Republican system, and making them voters all at once, without the preparatory process of education; since the good of the whole, including the oppressed themselves, might require their exclusion. Such a man, if in his heart a Republican, would, notwithstanding his hesitation about im-

mediate emancipation, still acknowledge their natural rights. He would feel that the poorest and most degraded subject of the most despotic monarch is yet a brother of the human race, and has within him the capacity of better things ;— that all who wear the form of humanity are entitled to the hopes and privileges of human nature. He would therefore be anxious to qualify the oppressed as soon as possible, and to raise them to the privilege of self-government. But whatever course a true patriot might feel himself bound to adopt, in one of the corrupt monarchies of the old world, no such reason can be given for a postponement of political rights in our own country. No privileged orders have ever existed in it, to create the vast inequality which prevails elsewhere between the many and the few. A spirit of freedom was brought with them by our ancestors, and has ever subsisted among us. There is a very general diffusion of useful knowledge. *The great majority, also, in this country are interested in property of some sort or other ; and are thus strictly bound together in interest to support the government.* The only exception to this general equality is in the Slave States, where a large part of the population is in a still lower condition, than the degraded populace to which we have alluded. But be the case as it may in those States, there is no pretence of any such marked inequality among the citizens of New-England as to designate any particular class of them, for exclusion from the benefit of political rights. The true American doctrine is that the majority not only have a right to govern, but that they are sufficiently intelligent and honest to govern ; and that, if there be any doubt about this sufficiency, we ought immediately to set to work and build more schools. Men in Europe who are opposed to any farther improvement in government may talk about the necessity of “ barring out the people,” and of “ defending themselves against the people.” But this will not do here. He therefore who contends in New-England for any limitation of political privileges that excludes a majority of his fellow-citizens from voting, whatever may be his party, or professions, or denunciation of other men on the score of Republicanism, tells you in effect, startled though he may be at the sound of the words,

that he distrusts and is unfavorable to a Republican form of government—that he wishes “to make it safe” by confining all power to the minority, who will thus be able to protect themselves against the people. Protection against the people in this country ! Any man strenuous for the present system, and who calls himself friendly also to popular rights, would do well to inquire for the definition of the word People. It includes, besides landholders, many more who are getting impatient for a new definition of the word, however its meaning may have been settled by long usage in this State. Depend upon it, fellow-citizens, that if the People of this country become ignorant and corrupt, our form of government will be changed, in spite of all the barriers of a landed qualification. While they continue intelligent, it is as unnecessary as it is unjust to bar out the majority.—We will not use any flattering words about the intelligence of the people, as is too often done, because we would not encourage any self-satisfaction on this point. Those who now claim to be made voters in this State wish to see this intelligence greatly increased. They wish to see education taken out of the range of declamation and made a matter of fact. They feel a confidence in the stability of our Republican government ; and that it would be treason to doubt it. Their reliance is on the effect of general education. They are anxious to see the means of a common education greatly increased in Rhode-Island, and are ready to pay their proportion of it by a poll or other tax. They will fear nothing for the country so soon as but a small fraction of the population shall be unable to read, write and cipher, and be uninstructed in the principles of common honesty. Let those among us who fear to extend suffrage, on account of the alleged ignorance of the applicants, lend their aid to introduce an improved and extended system of Public Schools. They will thus quiet their own scruples, and confer an incalculable benefit upon the State. This is the true, patriotic, Republican course. We do not concede the name of Republican to every one who uses it. He only is entitled to it, in our estimation, who prefers a Republic above all other forms of government, who upholds it by his words and his example,

who refuses its privileges to none who are fit for them, who seeks for its perpetuation in the increase of public virtue and intelligence. If any thing be wanting to this definition of a Republican, it will be supplied by the addition that he loves his country more than his party, however honest it may be.

Further, as Political is the only safeguard of Civil Liberty; or, in other words, as a participation in the choice of those who make laws is the only security that those laws shall be just and equal in their operation, we ask, is the civil liberty of the majority protected as it ought to be in this State? "In countries," says an English writer, "where a man is, by birth or fortune, excluded from offices, or from a power of voting for proper persons to fill them, that man, whatever be the form of government, or whatever civil liberty or power over his own actions he may have, has no power over those of another. He has no share of the government, and therefore has no political liberty at all. Every man has an absolute and unalienable right to civil liberty; and for the security of it, political liberty should be extended as widely as possible. *No man should be excluded from the exercise of it, excepting from circumstances of unavoidable necessity.* It may appear, at first sight, to be of little consequence whether persons in the common ranks of life enjoy any share of political liberty or not. But without this, there cannot be that persuasion of security and independence, which alone can encourage a man to make great exertions. A man who is sensible that he is at the disposal of others, over whose conduct he has no sort of control, has always some unknown evil to dread. He will be afraid of attracting the notice of his superiors, and must feel himself a mean and degraded being. But a sense of liberty, and a knowledge of the laws by which his conduct must be governed, with some degree of control over those who make and administer the laws, give him a constant feeling of his own importance, and lead him to indulge a free and manly turn of thinking, which will make him greatly superior to what he would have been under an arbitrary form of government." This is the language of a foreign writer, the subject of a monarchical government. If it be sound and just in its application to such a government, it has tenfold force in a country with institu-

tions like our own. We see that a man may be civilly free and politically a slave. An absolute despot may dispense wise laws to his subjects, and maintain them with impartiality. It is especially his interest to guard the right of property, since every addition to the national wealth adds to his own resources and to the strength and splendor of his government. But there is no security for the continuance of this protection; and it is in the power of a despotic successor to overturn all previously established laws, to stop the general transfer of property, and to constitute himself, as the present sovereign of Egypt has done, the sole merchant in his own dominions. Of course we do not mean to intimate that any similar gross abuse of power has ever been perpetrated in this State; but, before leaving this part of the subject, we would ask one practical question, namely, whether there has ever been any reason to suspect in our Legislature, chosen as it is, any tendency to lean toward this or that interest in the State, at the expense of others.

But not only is our present restrictive system opposed to the fundamental principles of a Republican Government, but it is in violation of the real intentions of those who founded our State, and procured the Charter of Charles II. It was declared at the first session of the General Assembly, in the year 1647, that the Government of the State should be a DEMOCRACY, that is to say a RULE of the PEOPLE. That Rule was perfectly consistent, at the foundation of the State, and long after, with a landed qualification. It was then in this State, as it is now in our newly settled western States;—he who did not own land, owned nothing. A man who goes to settle in Missouri is a purchaser of land, as a matter of course. If he be a mechanic, he must, nevertheless, before he exercises his trade, make a clearing and set up his log hut. A few dollars, for the payment of which he has credit perhaps, will purchase a considerable estate. If a landed qualification were introduced into several of the western States, it would not much diminish the number of voters, who now vote upon a more extended plan. It was very much the same in the early days of Rhode-Island. Landed property was not only the principal property of the citizens,

but was so easily attainable, that a landed qualification for voters excluded only a small portion of the people from political power. But the condition of things has changed: the towns have changed. New interests have sprung up; and there are now great numbers of our most honest, industrious and useful citizens, who own no land, but who contribute by their occupations, and by the payment of taxes to the extent of their means, their proportionate measure to the public welfare. Yet these men have no voice in the government which they contribute to support: being excluded upon the false notion, that landed property is the only kind that is decisive of a man's intelligence and honesty. Look at the hardship of the case of a mechanic, for instance. He has received a common education; he has served as a journeyman, and is now about to commence business for himself, with some small earnings of his own. His savings are only sufficient to procure the implements of his trade. After fairly starting in life on his own account, he becomes anxious to provide for himself a home. He marries; he hires a tenement; in the course of time, he acquires more money, which his interest demands should be invested in the stock of his trade. He is fully able to purchase one hundred and thirty-four dollars worth of land; but it is, in most cases, against his interest to do so, until he can purchase a great deal more. In the mean time, he is debarred from the polls; and if he ask why, the answer must be, that the non-freeholders are too ignorant or dishonest to be trusted in so important a matter as voting. This we believe is a fair statement of the case of hundreds of mechanics in this State; of exactly how many hundreds, we are not now able to say, but we hope to lay this information before you at some future time. The people of this State cannot be aware of the real operation of the present system, or they would long since have applied a corrective. Take some examples of the way in which this system works.

"In 1830 there were, in the town of North-Providence, 779 male inhabitants over 21 years of age; of whom 200 were *free-holders*, leaving 579 *non-freeholders*. In 1832, 66 of the non-freeholders were taxed for about \$50,000 worth of property.

The amount of their taxes was \$140. This tax was levied on those only who kept stores, or who were known to have property; while there were probably three times that number, whose bank-stock and other property amounted to as much more, unknown to the assessors. There are residing in Pawtucket *five* patriots of the Revolution, who have no voice in any of the affairs of the town or State."

"In Providence 65 non-freeholders alone have lately paid a tax of 1078 dollars; and 361, including the 65, a tax of 1810 dollars."—(Some eldest sons are included in this list.)

"In Cumberland there are 210 tax-payers who have no vote. 280 persons voted at the last election in that town."

"In Warren there are 136 freeholders, natives of this State, and 49 resident freeholders, natives of other States. In 1833, 79 non-freeholders were assessed \$156.42."

But this restriction is not merely burdensome upon traders and mechanics. How fare the younger sons of farmers? True a sort of virtue is transmitted from the land-owner, but it reaches no farther than the first-born son. We have but a word to say about that remnant of the right of primogeniture, the privilege of the eldest son to vote. If we had a franchise to give away, and the question was, which of the sons in a family should have it, there would be many good reasons for preferring the eldest. But the real question is, why either of the sons, or any other person, should be exempted from the general law of qualification, whatever it may be. No good reason has been, nor can be given.

But the farmer himself does not escape the effect of the present law. Misfortune may overtake him, and he may be obliged to mortgage his estate; perhaps to some non-freeholder, who has accumulated his earnings, and has something to lend. The moment the mortgagee goes into possession, the farmer's former capacity and competency literally fall *to the ground*: he is no longer fit to be trusted with a vote; and the non-freeholder, who was before not to be trusted, becomes all at once invested with the dignity and immunities of a freeman. But industry retrieves the farmer's losses, and he redeems his estate. His intelligence and trustworthiness return upon him by the magic of his title deed; and the hapless

wight, who has thus been indulged with the brief fruition of political privileges, shrinks away, all at once, into his former insignificance. What does such a farmer think about suffrage?

Take the three professions of law, divinity and medicine. The majority of lawyers,* clergymen and physicians,† as a body, certainly are not landholders; and yet we freely entrust our property, our consciences and our lives to men, who, the law says, are too ignorant and corrupt to vote for a constable!—We feel a proper respect for the landholders of this State. A great part of this Convention are landholders. We are happy to see that so much of the good old fashioned spirit of the primitive times has been transmitted to our own through the farming interest. But notwith-

*In October, 1718, it was enacted by the General Assembly, that no person should have “in any one cause above two attorneys,” and that one of them should be “a freeholder, a freeman, and an inhabitant in this colony.”

In October, 1729, an act was passed “restricting all lawyers from being chosen deputies (to the General Assembly) of any towns in this Colony, during their practicing the law.” It was repealed at the February session succeeding, having been found, as is stated in the preamble to the repealing act, “to be of ill consequence, and inconsistent with the right of his Majesty’s subjects in this colony.” A marvelous sense of justice!

It cannot be necessary to do more than allude to a more recent act of the Legislature, imposing a special tax on members of the legal profession;—to a vote excluding them from seats at the bar of the House of Representatives;—and to a vote depriving insolvent petitioners of the benefit of argument by counsel, upon the trial of their petitions.

†In October, 1748, a fine of 100 pounds, “for every such offence,” was imposed on any physician, who should refuse or neglect to obey the orders of the governor, and a list of other state and town officers, in their attempt to prevent the spreading of a contagious disease. On turning to a previous law (of 1743) to ascertain what could be required of a physician, it appears that the abovementioned officers, might, at their pleasure, send him, or any other “suitable person” on board of an infected vessel, without any regard to his own inclination. Medical men, to their great honor, have, with rare exceptions, been ready, in all times of pestilence and calamity, to sacrifice their health and to risk their lives in the service of the public: and this compulsory process is unjust to their rights and character, and ill suited to their feelings. The act does not specify whether any distinction shall be made between freeholders and non-freeholders in this case. The penalty has been changed from 100 pounds to 40 dollars; and now stands at that sum.—We have had some strange laws in this “Government.”

standing the just estimation in which we hold this interest, that we should say, or believe that *all* the intelligence, honesty and patriotism in the State resides with them, is too much for their modesty to ask, or for our sense of justice to concede.

We see then, that a landed qualification operates, at the present day, very differently from what it did in early times. If one of those ancestors who voted for "Democracy," in 1647, could speak to us from the tombs, would he counsel us to rescind that vote, and change the name,—or to correct that legislation by which it has become a dead letter? We can be at no loss for an answer to this question.

If we look at the Charter, and the early laws relating to Freemen, we shall see still more clearly how opposed the present law is to the true intention of our predecessors. The Charter vests the election of freemen in the General Assembly, and *prescribes no qualification*. The Company being a land Company, with powers of government annexed, and having in view to improve and settle their territory as fast as possible, it would have been natural for them, independently of the reason that landed property was then almost the only property, to prefer such members as would take an interest in the cultivation of the soil. The Company was empowered by the Charter to transport to the Colony, for its plantation and defense, such persons as might be willing to accompany them; and the emigrants became farmers, as a matter of course. The Assembly, therefore, in favorably regarding the agricultural interest, evidently had no political design; and practiced no restriction, in the sense in which a landed requisite is one, at the present time. The requisite of admission was not made a political instrument till long after. There is reason to believe that they looked more to the fitness of the person proposed for admission, than to his property in land; though almost every decent person in those times was a land owner of course. There were inhabitants not freemen, but their number must have been small. To show the sense of the Legislature on the subject of qualifications, we ask your attention to some of their Acts.

The Act of March 1663-4 declared "That all persons whatsoever, that are inhabitants within this Colony, and admit-

ted freemen of the same, shall and may have liberty to vote for the electing of all the general officers in this Colony, &c. as is expressed in the Charter of the Colony."

It also enacted "That no person shall be elected to the place of a deputy to sit in the General Assembly of this Colony, but those that are freeholders therein, and freemen of the same."

In the same year it was farther declared "That all men professing Christianity, and of competent estates,* and of civil conversation, who acknowledge and are obedient to the civil magistrate, though of different judgments in religious affairs (Roman Catholics only excepted)† shall be admitted freemen," and be permitted to choose officers, and to be eligible to office.

No estate of any kind is required by the first act; and none of any fixed value by the last, to make a freeman. It probably varied, both in kind and quantity, with the opinion entertained by the Assembly of the applicant's character and demeanor. It is important to notice the distinction made between the electors and those who might be elected deputies to the General Assembly. The electors were to be freemen,—admitted at first without any specified qualification, and next upon having "competent" estates:—the deputies must have estates in *land*,—be freeholders, *and* freemen.

The Act of 1665 continues the qualification of "competent estates," without defining them. (Page 154 of old record.)

In 1666 it was enacted, that the freemen of each town shall have "full power granted them to admit so many persons, inhabitants of their respective towns, freemen of their towns, as shall be by them adjudged *deserving* thereof." It was made the duty of the town-clerks of all the towns, once a year, to send a list of all the freemen admitted in their respective towns to the General Assembly, the day before the election; and of the general recorder to enroll in the Colony's Book

* Previously to the grant of the present Charter, there was no other requisite for admission than that of "being found meet for the service of the body" politic;—a body, by the way, into which our ancestors first incorporated themselves, by natural and equal suffrage.

† See note to page 17.

“such persons that shall be so returned, *and* admitted freemen of the Colony.”*

The *desert* here spoken of must have been good character, and usefulness to the Colony. The towns might and no doubt did consider some to be deserving of admission who owned no land, and others to be unfit who did.

It was enacted in 1724, that no person should be admitted a freeman, unless he were a freeholder of lands, &c. of the value of 100 pounds, or to the value of 40 shillings a year; or *the eldest son* of such a freeholder: “any other act, *custom or usage* to the contrary hereof notwithstanding.”

In 1730 it was enacted “That no person whatsoever shall be admitted a freeman of any town in this Colony unless he be a freeholder of lands, &c. to the value of 200 pounds, or 10 pounds per annum; or, the eldest son of such a freeholder.”

In 1742, it was farther declared, that no person shall be admitted to vote, but such only, who, at the time of voting, are freemen, *and* possessed of land, &c. as above.

The preamble of the Act of 1746 complains of the inroad of bribery and corruption into the Colony; and gives as the occasion of it, the manner of admitting freemen, which “is so lax, and their qualifications, as to their estates, *so very low*, that many persons are admitted, who are possessed of *little or no property*.” The remedy of the evil (whether real or pretended by the leading politicians to cover their design, we need not now inquire) consisted in raising the qualification to 400 *pounds* value, or 20 pounds rent per annum; without which no one was “allowed to *vote* or *act* as a freeman.”

The qualification of voters was changed again in 1762; and

*It appears that there was an intermediate step between the practice of electing freemen wholly by the General Assembly, and afterward wholly by the towns. This is more clearly explained in the manuscript Digest of 1719. The phraseology of the act of 1666 there varies greatly from that of the printed act. At pages 35 and 36, it is enacted “That every town, at their town-meeting, hath power to make such men freemen of their towns as they shall judge may be *meet*, and may be serviceable to serve in the towns, in town offices.” The act goes on to say, that all such persons may then vote for town-officers; and that after their names shall have been presented to the General Assembly, and they “pass by vote to allow them freemen of the colony,” they may vote for general officers.

it was enacted, that no person whatever should be permitted to vote, or act as a freeman, but such only as were possessed of a real estate of the value of 40 pounds, or which shall rent for 40 shillings per annum.

It is sufficiently evident from this brief examination, that a freeman was not necessarily a freeholder ; and that the mode of admitting freemen previously to the act of 1724, (*which act for the first time in the colony established an exclusive freehold qualification*) was entirely irregular: and the language used about its laxity, and the lowness of qualifications, and the allusion in the act of 1724, to “a custom or usage to the contrary” of what was then enacted, show that the restriction had been merely nominal.—There is another important fact apparent from the acts raising the qualification to two and four hundred pounds, namely, that a distinction was thus made among the freemen themselves. All persons (previously freemen, or not, it made no difference) who did not come up to the sum of two and four hundred pounds, were, by these acts, deprived of their privileges. The acts of 1742—46 and 62, directed, not merely who should be admitted freemen in future, but also who should cease to act as such.* This unmaking of freemen, or depriving them, without proof of crime, of every thing but the mere name, was a clear violation of the spirit of the Charter, and goes, in addition to the remarks already made upon the operation of that instrument, to show how little it was practically regarded in the business of legislation, and that the General Assembly then exercised, as now, an undefined power, similar to that of the Parliament of England. “If representatives of the people,” it has been well said, “chosen for the ordinary purposes of legislation, could assume a control over this right (the right of suffrage) to limit, curtail, or extend it at will, they might disfranchise any portion they pleased of their own electors; might deprive them of the power ever to remove them; and thus reduce the government to a *permanent aristocracy*.”

The existing restriction on suffrage is then, we think, clearly in opposition to the real intention of our ancestors, and to

*Our Statute-Book, at the present day, does not prescribe in direct terms who shall be freemen ; but who shall *not vote or act* as such. The law on its very face is an excluding rather than an enabling act.

the spirit of the Democracy which they established. We have already seen that it excludes many who pay taxes: it is farther objectionable, because it occasions those taxes to be imposed without consent and without any control of their expenditure. It was this same evil to which our fathers refused to submit and which led to the Revolutionary contest. It is still an evil though visited upon a large portion of the people by their own fellow-citizens. If it were unjust for our forefathers to be taxed without representation, it is equally unjust for their descendents to be so taxed by their brethren, as long as they have no voice in determining either the quantity or appropriation. How, let it be asked, are the duties on those articles of foreign importation, which are consumed in this State, paid? By the body of the consumers, who consist as well of non-freeholders as of the owners of the soil. The expenses of the General Government, as we well know, are paid without any resort to direct taxation. The non-freeholders pay their full proportion to government in the shape of duties, and yet they have no part in national affairs; because those only can vote for Representatives to Congress, who are voters for members of the most popular branch of the State Legislature. And these voters are exclusively the owners of the soil. This injustice is so palpable, that we think it must extort the confession of all who give it a moment's attention. Ought it not to be remedied?

The objection that the non-freeholders, if admitted, will vote away the money of other people, comes with a very ill grace from those who are now voting away the money of these very non-freeholders, without their consent.

The present system is also inconsistent with itself. It excludes intelligent and upright men from the polls, because their business is such, that the possession of the requisite landed qualification is impracticable. And yet in many instances they are bound to the soil by a species of real property, consisting in houses, workshops, &c. built upon land leased to them for a term of years. A life estate entitles a man to vote: a lease for 99 years does not. Is this consistency?

Again,—the present system of voting is opposed to the spirit of the Constitution of the United States. That Con-

stitution contemplates no such distinction among the citizens as our law creates. It guaranties to each State a republican form of government; the very nature of which is to extend the right of voting to a majority of its citizens. If we venerate that instrument, why should we any longer withhold those privileges which it intends to confer?

Another objection to our law of restriction, is, that it is opposed to the theory and practice of all the other states with a single partial exception. In North-Carolina, a freehold is still required to vote for a Senator. This is now the only remaining state in which the right to vote for any officer is confined exclusively to landholders.

The following is a Table of the Qualifications of voters in all the States, derived from a careful examination of each of their Constitutions.

MAINE. Citizenship of the United States, and three months' (next preceding) state residence. Untaxed Indians excluded.

NEW-HAMPSHIRE. Inhabitation and payment of taxes.

MASSACHUSETTS. Citizenship: one year's state, and six months' (next preceding) town or district residence, and payment of taxes.

CONNECTICUT. Citizenship of the United States, and settlement in the State, with a freehold of 7 dollars yearly value, and six months' preceding town residence—or, a year's performance of military duty—or, the payment of taxes, with good moral character. Blacks excluded.

VERMONT. One year's (next previous) residence, with quiet and peaceable behavior, and an oath to vote according to conscience "touching any matter that concerns the State."

RHODE-ISLAND. Inhabitation in town where vote is offered, with real estate to the full value of 134 dollars, or, which shall rent for 7 dollars per annum—or, being the eldest son of a freeholder to the same amount. Voting by writing name on back of ticket,—same in effect as *viva voce*. Blacks excluded.

NEW-YORK. Citizenship, with one year's state and six months (next previous) town or county residence—and payment of a tax within the year preceding an election, unless

exempted—or, performance of military duty within that year, unless exempted—or, performance of labor upon the highways, (unless an equivalent has been paid) with three years' next preceding state and one (the last) year's town or county residence. For men of color, three years' citizenship of the State, with a freehold of the value of 250 dollars, owned for one year preceding an election, and having paid a tax thereon.

NEW-JERSEY. One year's (immediately preceding) county residence, and being worth 50 pounds proclamation money.

PENNSYLVANIA. Two years (next previous) residence, and payment of a state or county tax, assessed at least six months before an election. Sons of voters allowed to vote between the ages of 21 and 22 years without having paid taxes.

DELAWARE. Citizenship, with one year's (next preceding) state and the last month's county residence, and payment of a tax assessed six months before an election. Citizens allowed to vote between the ages of 21 and 22 years without having paid a tax. Blacks excluded.

MARYLAND. Citizenship, with one year's state, and six months (next preceding) county residence. Blacks excluded.

VIRGINIA. Citizenship and residence—with a freehold qualification, according to the former Constitution—or, a freehold of the value of 25 dollars—or, a reversion in land of the value of 50 dollars—or, the occupancy of a leasehold estate, of a term originally not less than five years, at a rent of 20 dollars a year—or, lastly, having been a housekeeper and head of a family for 12 months next preceding, in the place where application is made to vote, and having paid a state-tax within the preceding year. Voting *viva voce*.—Blacks excluded.

NORTH-CAROLINA. To vote for Senators, one year's (immediately preceding) residence in any one county, and a freehold, within the same county, of fifty acres of land, held for six months next previous, and at the day of election.—To vote for members of the House of Commons, one year's (immediately preceding) residence in any one county, and having paid public taxes.

SOUTH-CAROLINA. Citizenship and two years' state residence previous to the day of election, with a freehold of fifty acres of land, or a town lot, legally possessed at least six months previous,—or, without a freehold, having been a resident in the election district where the vote is offered six months previous. Blacks excluded.

GEORGIA. Citizenship and inhabitation, with six months county residence, and the payment of taxes, if assessed, for the year preceding an election. Voting *viva voce*.

OHIO. A residence of one year next preceding an election, and being assessed to pay a state or county tax,—or, laboring on the roads. Blacks excluded.

KENTUCKY. Citizenship, with two years state, or one year's (next preceding) town or county residence. Voting *viva voce*. Blacks, Mulattos and Indians excluded.

TENNESSEE. Inhabitation in the state, and a freehold in the county where the vote is offered,—or, inhabitation in any one county, six months immediately preceding the day of election.

MISSISSIPPI. Citizenship of the United States, with one year's (next preceding) state, and the last six months' county or town residence, and enrolment in the militia,—or, having paid a state or county tax. Blacks excluded.

ALABAMA. Citizenship of the United States, with one year's (next preceding) state, and the last three months' county or town residence. Blacks excluded.

LOUISIANA. Citizenship of the United States, with one year's (next preceding) county residence, and the payment of a state tax within the last six months prior to the election. Blacks excluded.

INDIANA. Citizenship of the United States, with one year's (next preceding) residence, entitles to vote in the county where resident. Blacks excluded.

ILLINOIS. Residence in state for six months next preceding an election entitles to vote in the county or district where resident. Voting *viva voce*. Blacks excluded.

MISSOURI. Citizenship of the United States, with one year's (the next before) state, and the last three months county or district residence. Blacks excluded.

Those who call in question any natural right of suffrage, lay great stress upon the fact that in so many of these Constitutions* the qualifications of persons eligible to the offices of government are fixed much higher than those of the electors themselves. They say that therefore political rights are not self-subsistent, but are derived from an arbitrary appointment of the law-giver. We do not consider any such distinction to be necessary in this State, nor do we contend for it : and it is a sufficient answer to the objectors to say that where the distinction does exist, it was made by the people themselves, in their original, sovereign capacity. The constitutions of all the States proceeded from the great majority of the people, fairly represented in Convention. These constitutions were laid before them for acceptance, or rejection. They could and did define, limit and settle their own rights as they saw fit. The fact above stated so far then from proving any thing against the rights of the people, proves another thing conclusively in favor of the people, namely,—that in manifesting so much solicitude that all places of trust should be filled with those most competent to discharge their duties, and in thus foregoing an equal claim to them in all the voters, they have shown themselves the safe depository of political power, and eminently worthy of republican freedom and self-government.

We do not ask for a change here, merely because a restriction like ours has been abolished in other States ; but because such a change is right. Still the fact that twenty-two, out of twenty-three, of the other States, have no such exclusive landed qualification as that now insisted upon in this, ought to go far in overcoming any doubts or scruples on the subject of an extension of suffrage. Are not the peo-

*The States which have made landed property an indispensable requisite for the governor, senators and representatives are the following,—New-Hampshire, North-Carolina, South-Carolina, Tennessee, Louisiana and Mississippi.—In New-York, the governor and senators ; in New-Jersey, the legislative councilors and representatives ; in Virginia, the senators and representatives ; and in Massachusetts and Georgia, the governor,—must be landholders. In the remaining thirteen States no property in land is exclusively required of any of the above mentioned officers.

ple of the other States our brethren ; are we not all bound together as one people, under the glorious Constitution of the United States ? Can the people of this State be expected to entertain any less liberal ideas of Republican freedom and government than the vast majority of their brethren elsewhere, who are united to them in interest and feeling, and separated only by the outline of State boundaries ? Such an expectation is unreasonable and contradicted by all observation and experience. Are not the people of other States, who have adopted the plan of extension, as enlightened, as capable of understanding the greatest good of the whole, as much blest with sound laws and the wise execution of them, as ourselves ? Are we indebted to a landed suffrage for any decided superiority in our civil and social condition ? Have we gone farther than all others, in proportion to our means, in providing for public instruction, and public charities ? We are obliged reluctantly to admit the contrary. Not to pursue this part of our subject any farther, at present—let any man point to any one practical result in this State, which gives an advantage to a landed qualification for voters over that of the payment of taxes, and we shall be happy to give it a fair consideration, and allow to it all the weight to which it may be entitled.

One of the reasons offered in favor of a freehold qualification is that it tends to a greater division of land, and to check the increase of great landed estates. Even admitting this to be true, the remedy is not wanted, for it has already been supplied by the statute of distributions. The right of primogeniture as it respects property has been done away. An equal division most commonly takes place at the death of a parent ; and it is perfectly well known that the third, or fourth generation at most, in this country, scatters the greatest accumulation that the industry and economy of the ancestor is ever able to make. Property is divided and equalized in our country to an extent never known in any other. And the interest in property, of some kind or other, thus created in the majority of the people is one reason, and a strong one, for believing that our form of government will be permanent. In no State, which has exchanged the land-

ed for a tax qualification, has there been the slightest complaint of too great an accumulation of land in a few hands from this cause. The argument is evidently more for the benefit of the present suffrage law, than for the benefit of the people.

What then is the object of any property qualification at all for a voter? The only just object is *to raise a presumption of his honesty and intelligence*. Where this honesty and intelligence can be ascertained, independently of a particular qualification, there the necessity of it ceases. Men of all opinions readily say, in the discussion of the question of suffrage, we should be perfectly willing to let in all honest and intelligent persons to vote, whether they have property or not, if we could only ascertain them. The man of substance is not admitted to vote, upon *any* property qualification which may be adopted, *because* he is a man of substance, but because his qualification raises the necessary presumption in his favor. If the law merely regarded the voter's substance, then the more substantial he might be, the more power should he have as a voter. If this were the spirit of a law relating to the elective right, then, to be consistent, we ought to go back to the plan adopted by one of the kings of ancient Rome, who divided the voters into classes and centuries, in such a way, that though each man had but one vote, yet the men of substance had the most centuries, and so controlled the elections. But how does property, or the ability to pay a tax, which implies property, and amounts to the same thing, raise an inference of a man's honesty and intelligence? Only in this way; if a man *inherit* property, the presumption is, judging by the natural feelings of men, that the parent who left it to him, was able and willing to give him education enough to use it properly: if a man *have acquired* property, the presumption is, and must be, as a general rule, that industry and probity were exercised by him in so doing, and that the cares and relations, which property brings with it, have sharpened his faculties, and increased his natural intelligence. Now all we ask, is, that every man among us who can be fairly presumed to be honest and intelligent enough to exercise the privilege of a voter, consistently with

the best good of our whole population, should be admitted to that privilege. And we propose such a qualification as will raise, in our condition of society, the presumption of honesty and intelligence: and if a certain minimum, or smallest sum, were fixed, so that every one who chose to pay a tax on not less than ——— dollars should become a voter, all pretence of objection, on account of the supposed control the assessors of taxes might have over elections would be entirely removed.

A *strict registration* of voters we consider indispensable: and *voting by ballot*, so that it could not be known how the vote was given, would remove the objection of improper influence. We are very desirous to see it introduced.

The distinction proposed between the qualifications of the native and the naturalized citizen is founded on the principle already laid down, viz. that the abridgment or suspension of a political right to promote the greatest good of the greatest number, and for that purpose only, is the self-preserving law of a political society. The restriction places the foreign born citizen in a better condition than the present freeholder; as he is only required to have been once the owner of a freehold, for a certain length of time, to be determined by the framers of a Constitution. The non-freeholders are willing and anxious to be tried by this law of the greatest good. The moment it can be shown that their claim of privilege is inconsistent with the greatest good of the whole community, they are willing to withdraw it. But let it be so shown.

It is a mistake in any to suppose that this restriction is at variance with any provision in the Constitution of the United States. When the Constitution says that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," it does not mean that they shall carry their rights with them from one State to another, but that they shall accept of such as are provided in the State to which they have removed their residence, and be subject to all distinctions there established.

There are some who consider themselves as making a reply to the arguments which have been offered, by affirming

that "No one ought to interfere with the rules and usages of a land Company"! What idea such persons can have of the nature of the government of this country, or of any government it would not be easy to determine. "The rules and usages of a land company," both civil and political, must then prevail for ever in Rhode-Island, whether right or wrong. We hope to be able on all occasions to manifest a becoming resignation to the appointments of Divine Providence; but we have not any such respect for the decrees and ordinances of men, no better than ourselves, as to believe, or admit that in political affairs, "whatever is is right." The "rules and usages of a land company" may be very convenient for those who hold power and desire to keep it; but they have no recommendations of justice or policy to others who are kept out of possession of their proper share of that power, though they have a permanent interest in the State, and are not destitute of a patriotic attachment to their native land.* The colonists of Rhode-Island were indeed a land company; but they were endowed with political privileges, and have exercised the usual functions of government: and for what purpose government was made, and who ought to partake in it, we have already seen. The friends of reform do not ask, nor do they consider themselves answered by being informed, how old their government is. Their question is whether it be right or wrong. If an attempt were made to get possession of the shares of a trading, banking, insurance, or, if you please, of a land company, without the payment of an equivalent, then there would be just reason for protesting against this invasion of chartered and vested rights. If such an attempt should be made, those who are aggrieved will find complete protection in the strong arm of the law.

We would ask of those, who contend that every thing should remain in this generation, as it came to us from the preceding, one or two questions. Suppose that some eminent in-

* It is a subject for reflection, that, while some of the descendents of the early settlers of the State have no vote in the places of their fathers, any one may come in from abroad, and upon the purchase of real estate, and being propounded three months previously, may become a voter. We welcome strangers, but not to greater privileges than are enjoyed by the majority of our own citizens.

dividual in England* had been employed to draw up a form of government for the Colony of Rhode-Island, and that for the sake of conformity with the institutions of the mother country, he had introduced a provision into the Charter to the effect, that the offices of governor, deputy-governor, and of the assistants should forever be confined to the male descendants of Arnold, Williams, Olney, and the other persons who were named in the Charter, to fill them for the first time. Suppose farther, that this hereditary senate† had not been abolished at the Revolution, but that it had continued to our own time: would you now advocate it ; and if so, might you not say that it was established by the original law of a “ land company,” confirmed by usage, and too venerable to be disturbed? If opposed to it, would you not say, however determined the senators might be never to surrender their hereditary privileges, that there ought to be and must be some way of voting them down ?—To add one more question,—What is the meaning of the clause in the Constitution of the United States which guaranties to each State a Republican form of government ? Is it not, that no Constitution, law, nor usage of any State, however agreeable to the majority, shall ever be suffered to compel the submission of a minority to a form of government in any respect anti-republican ? If the minority in every State be thus taken care of, most assuredly any expression of the will of the majority, not inconsistent with the definition of a republic will be recognized by the General Government.

It is a great mistake to say that the prescription in favor of the present order of things has never been disturbed. At about the commencement of the Revolution, the General Assembly manifested their sense of the necessity of some change by the appointment of a Committee to report upon

* The Constitution prepared for the State of South-Carolina by the celebrated Locke can hardly be deemed to have created any exception to the statement before made, that no privileged order of men had ever existed in this country ; since that constitution was found to be totally impracticable, and was abrogated in 1693, after a duration of only 23 years.

† It is one of the very remarkable features of our State government that the Senate is the more popular branch of the Legislature.

a proper form of Government for the State. No report, it is believed, was ever made. Other attempts, both for partial and general reform, have been unsuccessful; and the evils of the body politic have been suffered to accumulate.

But it ought to be borne in mind that no continuance of usage, or prescription however long, can impair, nor take away political rights from the people. From the ancient English maxim, "Time does not run against the king," erase the word "king" and insert "People," and you have a great and everlasting truth. No delay or acquiescence on their part can ever make it right to govern wrong, or to deprive any man of a voice in public affairs, who is sufficiently honest and intelligent to use it well.

We have seen that our existing freehold qualification for voters is inconsistent with a just regard to natural rights,—that it is opposed to the principles of a Republican Government,—to the real intentions of the founders of this State,—to the Declaration of American Independence,—to the spirit of the Constitution of the United States,—to the practice of all the other States, but one;—that it is inconsistent with itself, and unfair in its operation. Still farther,—admitting, for argument's sake, (and God forbid that we should ever otherwise make the admission, so long as we retain any recollection of the Declaration of Independence, and of the Principles, the Acts and the Men of the Revolution) that there are no natural rights, and that all political power and privilege proceeds from the Government to the People,—the present landed qualification is proved to be highly unnecessary and inexpedient.—But there are many who are capable of feeling the force of these objections, who will call them abstract and theoretical, and say that they want more facts. We want them too; and we ask these objectors to go along with us in the search, bearing in mind, at the same time, that, as the freehold restriction is in derogation of political rights, the burden of proving its necessity rests upon its advocates. We have come to the great *Issue of Fact*, which we now again tender to our fellow-citizens, and it is—Are those citizens, who by an extension of suffrage would be admitted to vote, such a class of persons as are unfitted by their charac-

ter to participate in the political privileges which they claim? We wish this question to be fairly met. Enough has been said, in vague and general terms, about "*unwholesome citizens*," "persons not to be *safely* trusted," "without property and vicious,"—about "protecting the *sound* part of the community against those who have nothing at stake in society"—"and protecting the people against intruders and adventurers from other States." It is perfectly easy to make this general declamation, and it has its natural and designed effect upon too many minds. Let those who use this language come out and say, if they will venture the assertion, *that the body of traders and mechanics, and professional men, and sons of landholders, are the base and corrupt persons who are aimed at in these sweeping denunciations.* No others can be meant. They are the men who unite with a large portion of the farming interest in demanding a reform. Shame, then, upon those defamers of their fellow-citizens, who, in the interested defense of a decrepid and tottering system, resort to this wanton and unmanly abuse and disparagement, which the daily business and intercourse of life prove to be wholly destitute of foundation in truth. We shall endeavor to show the people, more in detail, who these men are, who now claim the establishment of their just rights, and how many of them contribute by taxes to the public treasury. We invite you, fellow-citizens, to go along with us, and to aid us in the investigation.

But there is one charge made against the friends of reform which ought not to be passed by without a more particular notice. It is said by some that they are urging on a war against property, and, stirring up the poor against the rich. Was there ever a more unfounded and ungenerous accusation? God forbid that we should ever fall so low as to be capable of resorting to this last and basest expedient of decayed and desperate politicians. The *poor* against the *rich*! in a country where all interests and classes are combined and interwoven in mutual dependence, and rise and prosper, or decline and fall together. Does any one seek to take away any right from others and to appropriate it anew? It will be time to throw out such a suggestion when it is made to appear that an attempt to obtain the exercise of his own rights is robbery from other people,—and not till then.

The subject of the JUDICIARY, though last in the order of consideration, is not the least in magnitude and importance. In introducing this subject, it is proper to state a single fact; and we believe that no comment is required. The fact is this,—that while the most numerous portion of the present freemen are averse to any change in the Judiciary, those who are now excluded from the polls are in favor of it.

The improvement of our Courts of law will be an essential provision in any Constitution that may be hereafter planned for this State. Independence in the judge is essential both to the formation of the best judicial character, and to the best administration of justice. A judge should sit serenely *above* all the storms of political strife, that he may rightly divide the justice of the law between man and man: he should have nothing to hope from party ascendancy, and nothing to fear from the fall of political friends. A judge, however honest he may be, is in great danger of having his impartiality called in question in deciding a case, or instructing a jury, when one of the litigants has been recently placed shoulder to shoulder with him, in a warm contest for victory. The public good cannot be properly consulted, whenever less attention is paid to the qualifications of men to sit and decide as judges, than to services rendered to the appointing power.

The necessity of a well defined and independent Judiciary is more fully appreciated, when we remember that the Legislature of this State in many instances act as a court of justice. Under their oath of office as legislators they assume the responsibility of judges. They in fact legislate concerning particular facts upon rules and principles unknown to the common law. If they can do so in one instance, they may do so in others.* They may dispense with that palladium of liberty, the trial by jury, and erect themselves into a tribunal to decide both upon the law and the facts.

If there be any one sight more unpleasant than another, it is that of a political judge acting alternately as an administrator of the laws and the manager of a party. And yet the

* The practice of appointing special judges for particular cases, which has existed in this State, is highly improper and dangerous.

fault is all your own. You drive him to the necessity of management in order to retain a place which is opened once a year to new competitors.

A Court appointed during good behavior and receiving a fixed and competent support, is indispensably necessary as the sheet-anchor of a Constitution. It affords a constant barrier against encroachments of the legislative and executive powers, either upon the boundaries of each other, or upon the rights of the citizen. So far from admitting that the acts of the Legislature could not be called in question, it would be the arbitrator between the people and their representatives; between those who make laws and those who are called on to submit to them. The poorest possible of all economy is that which places the salaries of judges, and law-officers generally, so low, that few men of the first rate qualifications can be induced to abandon the superior emoluments of private practice. The money which is annually expended upon protracted litigation in this State greatly exceeds the amount of the most liberal salaries that could ever be desired for our Courts. This loss to the people is never taken into the account in estimating the cost of cheap Justice.—In 1729 the Judges of the Court of Common Pleas in this State were appointed during good behavior. The act regulating their term of appointment was repealed four years after, in 1733;* and they were afterward chosen annually. We want a fundamental law, which shall place their term of office out of the reach of every body but the power that makes and unmakes Constitutions. If you object to independent Courts on account of the cost, the non-freeholders would be glad to pay their part of a poll, or other tax, large enough to support both the Courts and the Schools.

We have spoken to you, Fellow-Citizens, of the nature of fundamental laws, or Constitutions, and of the source whence they are properly derived;—of the history, operation and de-

* The reason given in the preamble of the act of repeal is that the law of 1729 is “found very inconsistent with the constitution of this government, and contrary to the same.” An independent judiciary is truly inconsistent with an arbitrary legislature. But any incongruity of this sort may be easily corrected by fixing a proper limitation of legislative powers.

fects of the present Charter;—of the great inequality and injustice in the apportionment of our Representation;—of the duty of extending the privilege of Voters to all our fellow-citizens who are qualified to partake in it consistently with the general good;—of the vital necessity of an independent and permanent Judiciary. Have we, or have we not shown you that there is something radically wrong in the Political Institutions of Rhode-Island; and if so, does it not follow, as an irresistible conclusion, that all political measures, designed and properly tending to produce a complete and effectual change, without any farther delay, are right, expedient, and entitled to your strong and cordial support? A Constitutional Party in this State, if it proceed upon open and fair grounds, directly and resolutely to its end, is most emphatically the *Commonwealth's Party*. It has a right to expect the adherence of the older portion of our citizens; whose duty it is to transmit to their successors not merely what they have received, but all those additional improvements which the wisdom of age and of political experience has been able to suggest:—it challenges the best energies and the most active co-operation of the younger men. Every motive of duty and of patriotism calls upon them to arrange themselves on the constitutional side, and to aid us in making our government more suitable to the condition, and more “meet for the service of the body” politic. As they successively come forth to refresh the life-blood of the political system let them be found among the friends of Justice and Reformation. We shall make the best return of gratitude to the memory of our venerated ancestors, not by forever retaining the long established and present condition of our inheritance, but by proceeding, with some portion of their spirit, to do what they would do, if now within the range of human affairs and interests, to make it more worthy of the citizens of a free country. In the language of the illustrious author of the Declaration of Independence, “It is not only the right, but the duty of those now on the stage of action, to change the laws and institutions of government, to keep pace with the progress of knowledge, the light of science and the amelioration of the condition of society. Nothing is to be considered unchangeable but the inherent and inalienable rights of Man.”

Without stopping to recapitulate more minutely the different topics and arguments of this address, we now commend them to your earnest attention and deliberate judgment, with confidence as to the result. We have endeavored to speak plainly and distinctly. But if there should remain any doubt in your minds respecting any subject, or part of a subject, which has been considered, we shall be ready to make any explanations that may be desired. We ask you, to call together, by your Representatives, a Convention which shall represent the people at large, and prepare for us a liberal and permanent Constitution. We wish to proceed in the usual course of our brethren in other States; and that the same Legislature which has imposed on the citizens of Rhode-Island a landed qualification not spoken of in the Charter has at least as much right to suspend it, for the single purpose of facilitating the exercise by the People of the great, original Right of Sovereignty in the formation of a Constitution, we cannot for a moment doubt.

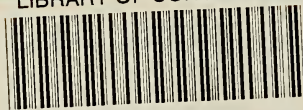
We wait your decision. Let it be worthy of Republican Freemen.

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